



**El Monte
City Council**

**Study Session
on Cannabis
Regulations**

Sept 28, 2016

For Tonight's Discussion

- El Monte Regulatory Framework
- Legal Timelines in California and Other States
- Medical Cannabis Regulation and Safety Act (MCRSA)
- Adult Use of Marijuana Act, Proposition 64 (AUMA)
 - Benefits, Taxes & Timing
 - Land Use & Operational Considerations
 - Public Safety Considerations
 - Other Considerations & Trends
- Options for City Council Consideration

El Monte Regulatory Framework

- **May 27, 2014** - El Monte City Council adopted an Ordinance prohibiting Medical Marijuana Dispensaries and Cultivation.
- **July 19, 2016** - the City Council adopted a temporary moratorium on “commercial cannabis activities,” as defined under MCRSA for a period of 45 days.
- **August 2, 2016** - the El Monte City Council adopted an Ordinance to reinforce existing prohibitions on medical marijuana dispensaries and cultivation.
- **August 16, 2016** - the City Council the moratorium for a period of 22 months and 15 days to July 18, 2018.

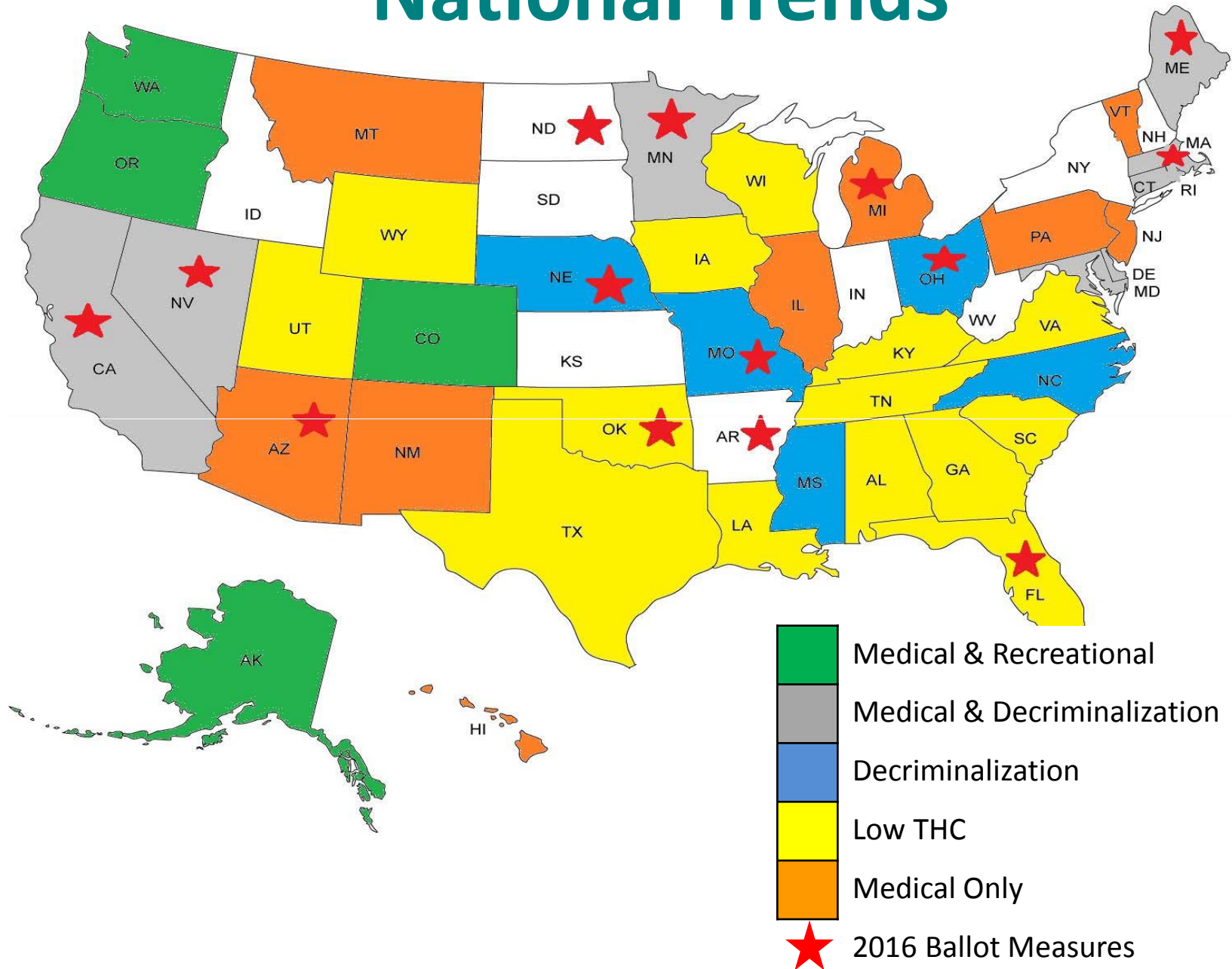
El Monte Anti-Smoking Laws

- The City has two anti-smoking measures concerning playground and tot sandbox areas (EMMC Chapter 9.10) and multi-unit residences (EMMC Chapter 8.74).
- The prohibitions in both measures include marijuana smoke: EMMC Section 9.10.010 and EMMC Section 8.74.020(O).
- NOTE: If approved, Proposition 64 (AUMA) would prohibit smoking marijuana essentially
 - in all public places
 - wherever tobacco smoke is prohibited
 - within 1,000 feet of a school
 - while driving or riding in a vehicle.

David McPherson

- 28 Years of experience in local government & leading expert in cannabis horticulture, dispensary operations & track and trace software systems:
 - Newport Beach, San Jose, Oakland
 - Currently with HdL Companies – Marijuana Regulation & Taxation Division
- Active local tax policy issues
- Close collaboration with the following entities to resolve issues related to marijuana
 - Law enforcement agencies
 - State legislature
 - League of California Cities
 - State of Colorado

National Trends



Legal Timeline

- 1970 Marijuana List as a Class 1 Drug
- 1996 Prop 215 Compassionate Use Act (CUA)
- 2003 SB 420 Medical Marijuana Program
- 2011 City of Oakland Taxes Medical Marijuana
- 2012 CO and WA pass Recreational Use
- 2013 US AG Issues Cole Memo Guidelines
- 2014 Congress defunds DEA Prosecutions
- 2015 CA Adopts (MMRSA/MCRSA)
- 2016 DEA-Holds their position and does not reschedule marijuana from a Schedule I Drug

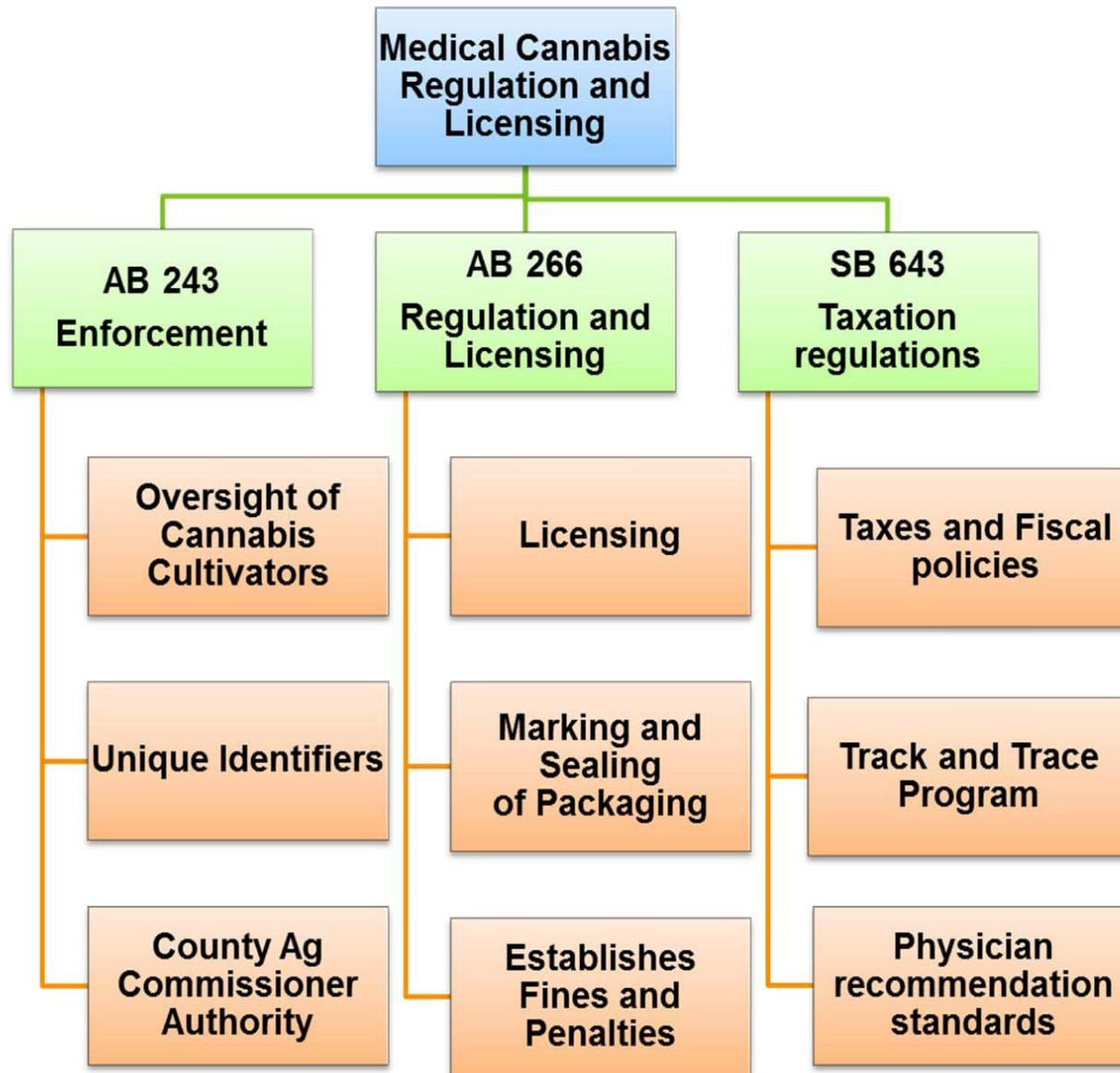
Status of Cannabis Regulations in California

Medical Cannabis Regulation and Safety Act (MCRSA)*

This legislation protects local control in the following ways:

- **Dual licensing:** A requirement in statute that all marijuana businesses must have both a state license, and a local license or permit, to operate legally in California. Jurisdictions that regulate or ban medical marijuana will be able to retain their regulations or ban.
- **Enforcement:** Local governments may enforce state law in addition to local ordinances, if they request that authority and if it is granted by the relevant state agency.

*Formerly known as Medical Marijuana Regulation and Safety Act (MMRSA)



Types of Permits in MCRSA

17 Types of Permits:

- Ten types of cultivation permits
- Dispensaries (single or multiple locations)
- Manufactures (nonvolatile & volatile solvents)
- Testing Labs
- Transporters
- Distributors

* Delivery services may occur if permitted by the local agency or if it is not explicitly not permitted by them and must be associated with a dispensary.

Types of Cultivation Permits

- Type 1/1A/ 1/B Permit (5,000 sq. ft.)
- Type 1C Permit (2,500 sq. ft.)
- Type 2/2A/2B Permit (10,000 sq. ft.)
- Type 3/3A/3B Permit (22,000 sq. ft.) *
- Type 4 Permit (Nursery unlimited)

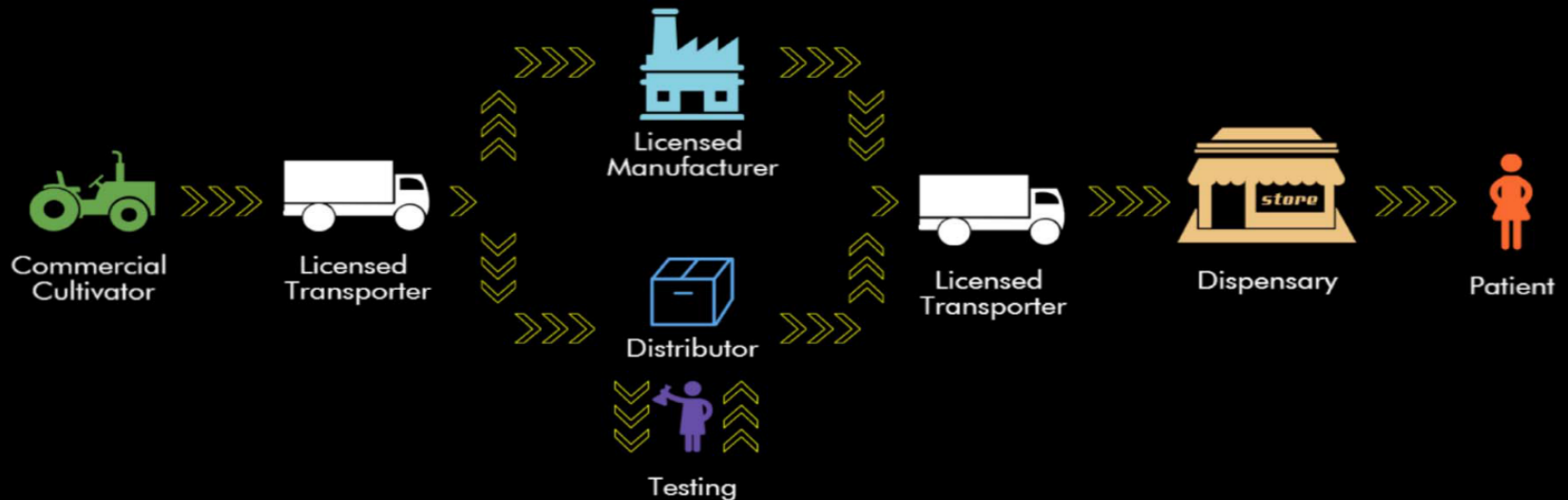
* Definition of premise and total number of permits allotted statewide need to be addressed.

Patient Access Under MCRSA

PERSONAL USE CULTIVATION



COMMERCIAL CULTIVATION



Adult Use of Marijuana Act Proposition 64 (AUMA)

- The Control, Regulate and Tax Adult Use of Marijuana Initiative (#15-0103) is an initiated state statute proposed for the California ballot on November 8, 2016.

Proposition 64 (AUMA)

- Legalize marijuana and hemp under state law:
 - Allows for regular possession of up to 28.5 grams of marijuana and 8 grams of marijuana product.
- Allows for indoor cultivation of six (6) plants per residential property.
- Cities can ban outdoor cultivation.
- Cities may prohibit or regulate variety of land uses.
- Cities may prohibit or regulate activities licensed by the State.
- Cities may prohibit or regulate delivery, but cannot prohibit use of City streets.

Proposition 64 (AUMA)

- Enact a sales tax of 15 percent.
- Include a cultivation tax of \$9.25/ounce for flowers and \$2.75/ounce for leaves, with exceptions for qualifying medical marijuana sales and cultivation.
- Designed to prevent licenses for corporate or large-scale marijuana businesses for five years in order to deter the “unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.”

Prop 64 Benefits

- **Research and Evaluation** - \$10 million.
- **California Highway Patrol** - \$3 million to establish and adopt protocols to determine if a driver is under the influence or impaired by the use of MJ.
- **Community Benefits** - \$10 million for job placement, mental health treatment, substance use disorder, and for communities affected by past federal & state drug policies.
- **Further Studies** - \$2 million to further study the enhanced understanding of the efficacy and adverse effects of MJ as a pharmacological agent.
- **Education, Prevention and Early Intervention** – 60%.

Prop 64 Taxes

Taxation	Non-Medical	Medical
State Sales Tax	Yes	No
Local Sales Tax	Yes	No
Other Local Tax ¹	Yes	Yes
State Excise Tax ²	Yes	Yes
State Cultivation Tax	Yes	Yes

¹ Rev & Tax 34021

² Excise Tax will be 15% on purchasers shared with public safety agencies.

Prop 64 Timing

- If passed by California voters on November 8, 2016, Prop 64 would take effect November 9, 2016.
- As of November 9, 2016, Prop 64 would legalize the nonmedical use of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants, as described above.
- Note, Prop 64 requires a state license to engage in commercial nonmedical marijuana activity and licensing authorities are required to begin issuing licenses by January 1, 2018 and the issuance of licenses will not occur much in advance of January 1, 2018.
- Thus, the Prop 64 provisions legalizing commercial nonmedical marijuana activity will not become operational until the state begins issuing licenses (likely in late-2017).

Land Use Considerations

- Definitions for uses, activities, etc.
- Permissive zoning vs. explicit bans.
- Permitted zones.
- Public hearing and noticing requirements.
- Special Findings.
- Separation requirements from sensitive uses such as parks, schools, day cares and other marijuana related uses.
- Parking requirements.
- Hours of operation.
- Signage and on-site advertisements.

Operational Considerations

- Background check for all operators and employees.
- Track and Trace Software to monitor all products and cash.
- Security requirements for locations.
- Odor control systems.
- Proper labeling of all products.
- Establishment of Compliance Reviews and Financial Audits for proper management oversight.
- Local inspections.

Public Safety Considerations

- **Manufacturing and Cultivation:**
 - Outline and identify permit requirements.
 - Exterior and interior security needs.
 - Potential for robbery when shipping/receiving products.
 - Hazmat response to fire from chemical and electrical dangers related to growers operations.
 - Modified electrical equipment and contaminated water.
 - Could function as a cover for larger illegal drug trafficking and production.

Public Safety Considerations

- **Dispensaries:**

- Outline and identify permit requirements.
- Exterior and interior security needs.
- Potential for crime.
- Impacts on sensitive uses such as residential neighborhoods, schools and parks.
- Increased calls for service related to disputes and narcotic abusing clientele.
- Relation to other drug sales.

Why Should Cities Care?

- Local economy is growing in some communities as a result of the Cannabis Industry.
- Commercial Companies.
- Residential Growers.

Predicted Valuations in 2017 If Business Were Fully Funded

- Edibles Maker 18X
- Wholesale Grower 12X
- Ancillary Services 10X
- Testing Lab 10X
- Ancillary Products 6X
- Processors 5X
- Dispensary 3X

Dealing with Cash Businesses



Banking Issues

- Cash transactions due to nature of business
- Limited banking options due to Federal law
- Audits hard to detect underpayment of tax
- Safety issues related to transportation of cash

Banks, Credit Unions Serving Cannabis Companies

- The number of banks/credit unions serving the Cannabis Industry has grown in the last 24 months
 - March 2014 51
 - March 2016 301

Five Trends

- Significant increases in investments.
- Shakeouts are starting to play out in certain counties and cities.
- Demand for concentrates and edibles are increasing.
- The cost to secure licenses and establish operations to increase.
- The State has medical cannabis and may soon have recreational which will change the dynamics of local agencies.

Generation of Revenues



Tax and Fee Strategies

- General Tax vs Special Tax
- Square Footage vs Gross Receipts
- Tax Rate \$XX to be established per Sq. Ft.
- Tax Rate percent (%) to be established
- Collection method and frequency
- Development of Cost Recover Fees

Things to Consider in Developing Tax

- Adult Use Marijuana Act (AUMA) 15% Excise Tax.
- Distribution/Transportation Processing cost of 15% to 30%.
- State Permit Cost to be Implemented.
- City Regulatory Permit Fees may offset staff costs to manage the program.
- Cost of wages, health insurance, unemployment insurance are new cost to the Cannabis Industry.

Create a Strategy for Success

- Establish a Medical Marijuana Management Program.
- Create an ordinance which is well thought out and creates good policies for the long term.
- Develop regulatory fees which address all your staffing resources but also complies with Prop 26.

Create a Strategy for Success

- Take baby steps to full implementation.
- Making sure that you have good actors in your city/county.
- Develop good regulatory and taxing policies.
- Don't get so focused on the economic benefits that you end up with unintended consequences.
- Create a progressive strategy which maintains best practices for land use and public safety and the appropriate revenue will come in time.

Key Points to Consider

- Collaborating with the cannabis industry and other stakeholders.
- What is the political will of the policymakers, administration, and the citizens of your community.
- Keep in mind how land use policies will effect other businesses/residents of your community.
- City/County staffing demands and capacity to meet the needs of the emerging industry.

Key Points to Consider

- Develop taxing strategies which comply with Prop 218 that provide you flexibility and properly identifies the best options for your city/county.
- Make sure that you have professional staff or consultant that understand Federal Guidelines, MCRSA requirements and the cannabis industry.

Options for Council Consideration

- Prop 64 personal use provisions:
 - Adopt reasonable regulations for indoor cultivation.
 - Ban or adopt reasonable regulations for outdoor cultivation.
- Medical marijuana businesses:
 - Explicitly prohibit some or all medical marijuana businesses, in accordance with MCRSA; or
 - Explicitly allow and license some or all medical marijuana businesses, in accordance with MCRSA.
- Non-medical marijuana businesses:
 - Explicitly prohibit some or all non-medical marijuana businesses, in accordance with Prop 64; or
 - Explicitly allow and regulate some or all non-medical marijuana businesses, in accordance with Prop 64.
- Develop tax strategies for permitted non-medical marijuana activities.

Questions?

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